

Federal Communications Commission

DA 98-2053

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DISPATCH

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 97-7
Table of Allotments,)	RM-8947
FM Broadcast Stations.)	
(Chehalis, Washington))	
)	
In re Application of)	
)	
Oregon Eagle, Inc.)	File No. BPH-970224IC
Station KTIL-FM, Tillamook, Oregon)	
)	
For Construction Permit to Modify)	
Licensed Facilities (One-Step Upgrade))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: October 7, 1998;

Released: October 16, 1998

By the Chief, Allocations Branch:

1. At the request of C. C. Broadcasting Company ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 12 FCC Rcd 659 (1997), proposing the allotment of Channel 282A at Chehalis, Washington, as the community's first local commercial FM transmission service. Petitioner filed comments in support of the proposal reaffirming its intention to apply for the channel, if allotted. After the petition was filed, and prior to the close of the comment period, Oregon Eagle, Inc. ("Eagle"), licensee of Station KTIL-FM, Tillamook, Oregon, filed a one-step upgrade application (BPH-970224IC) requesting the substitution of Channel 282C1 for Channel 281C3, and the modification of Station KTIL-FM's license accordingly. The allotment of Channel 282C1 at Tillamook conflicts with the allotment

of Channel 282A at Chehalis. Therefore, in accordance with the provisions set forth in Amendment of the Commission's Rules to Permit FM Channel and Class Modifications by Applications, the timely-filed Tillamook application has been accepted as a counterproposal and placed on Public Notice.¹ In response to the Notice, Eagle also filed comments.

2. In support of its proposal, Eagle states that Tillamook is a community with a population of 4,001² persons which serves as the county seat of Tillamook County (population 21,570). Eagle alleges that Station KTIL-FM is the only licensed FM facility in the county and only the second aural service in the county. Tillamook, as well as Tillamook County, are isolated by several geographic barriers, including the Oregon Coastal Mountain Range to the east (which reaches heights of over 3,000 feet) and the Pacific Ocean on the west. The community is further separated on a north-south axis by long stretches of narrow beach, numerous fast running small rivers and valleys which run down to the sea. As a further barrier, there are the heavily forested foothills which drop off from the Coastal Range down to the ocean's edge. Eagle contends that this terrain greatly limits and isolates Tillamook and Tillamook County from outside radio reception.

3. On the other hand, Eagle states that Chehalis (population 6,527) is a component of the hyphenated community of Centralia-Chehalis, Washington, or as conversely recognized in the Broadcasting and Cable Yearbook (1997 Edition), Chehalis-Centralia, Washington. Eagle further states that the hyphenated communities, whose city boundaries abut each other, are served by at least five broadcast signals licensed to either Chehalis or Centralia. Additionally, Chehalis, located about 25 miles south of Olympia and about 45 miles southwest of Tacoma, receives at least four other FM reception services, and Tillamook receives at least five FM reception services. However, Eagle claims that primary service (60 dBu) is precluded due to terrain shielding from mountains and hills.

4. Furthermore, Eagle argues that its proposed service area includes a substantial area that is currently underserved by FM service, whereas the Chehalis proposal does not appear to provide any new serve to underserved areas. Eagle claims that its proposal is unique because it will address a community problem not present in most comparative FM situations. Namely, Station KTIL-FM is the only operating FM station serving the entire county of Tillamook. It is also a community-minded station which provides the necessary emergency communications to this mountainous and flood-prone area. As a Class C3 service, Eagle also claims that Station KTIL-FM cannot satisfactorily provide reliable emergency communications service to Tillamook County. Therefore, the proposed Class C1 upgrade, as well as moving the transmitter site to

¹See 8 FCC Rcd 4735, 4739 (1993). Public Notice of the acceptance of Tillamook's application as a counterproposal was given on July 7, 1997, Report No. 2209.

²All population figures are taken from the 1990 U.S. Census.

higher ground to avoid off-air occurrence due to high flood waters, is necessary to provide dependable service to Tillamook County. Eagle submits letters from political representatives of the people of Tillamook County who support Station KTIL-FM's request to upgrade its facilities. Eagle asserts that the upgrade at Tillamook is in the public interest and is preferred over a new service at Chehalis because it will address the need for a county-wide local service in Tillamook County. Accordingly, Eagle urges that the Commission deny petitioner's proposal requesting the allotment of Channel 282A at Chehalis and grant Eagle's application to upgrade Station KTIL-FM from Channel 281C3 to Channel 282C1.

Discussion

5. As an initial matter, we reject Eagle's claim that Chehalis is a component of the hyphenated community of Centralia-Chehalis, Washington. We note that the communities of Chehalis and Centralia are listed in the U.S. Census and the 1998 Rand McNally Commercial Atlas as independent, incorporated communities with separate populations. We regard these sources as sufficient establish that the communities are separate and distinct from one another since Eagle has not submitted evidence to the contrary.

6. An engineering analysis has determined that there are no alternate Class A channels available at Chehalis, Washington. Therefore, the two proposals must be comparatively considered under the FM allotment priorities set forth in Revision of FM Assignment Policies and Procedures, 90 FCC 2d 88, 92 (1982), which are:

- (1) First full-time aural service;
- (2) Second full-time aural service;
- (3) First local service; and
- (4) Other public interest matters.

[With co-equal weight given to priorities (2) and (3).]

We find that neither of the allotments would provide a first or second aural reception service, or a first local aural transmission service. Therefore, we have examined the proposals under priority (4)--other public interest matters. Under this priority, we find that the public interest would be best served by allotting Channel 282A at Chehalis, Washington, as the community's first local commercial FM transmission service.³ We recognize that the Class C1 upgrade at Tillamook would provide new secondary service to 112,238 persons encompassing an area of 6,390 square kilometers (2,468 square miles), and would allow Station KTIL-FM to build a higher tower in a flood-prone community. However, the Commission has stated that generally the provision of

³Chehalis has one local noncommercial educational station and an application has been filed for an additional noncommercial educational service, which is pending.

a new primary service is of greater public interest benefit than the expansion of an existing one, especially here, where Chehalis is the more populous community (6,527 vs. 4,001). See Benton, Arkansas, et al., 2 FCC Rcd 1967 (1987), 3 FCC Rcd 4840 (1988), recon denied, 7 FCC Rcd 2555 (1992); Andalusia, Alabama, 49 FR 32201, August 13, 1984. Further, we note that Chehalis is presently served by one local noncommercial educational station, and that Tillamook is presently served by three local stations (one AM and two FM). However, both communities have at least five full-time reception services and are considered to be well-served.

7. Finally, although Eagle submits an engineering statement and exhibits to substantiate its assertion that the Class C1 upgrade at Tillamook should be preferred over the primary service at Chehalis because it would provide new FM service to a "substantial" underserved area, we disagree. Our engineering analysis has determined that, without taking into account the effect of terrain factors, 95% of the proposed gain area already receives at least five full-time reception services, with the remaining 5% of the area receiving at least four full-time reception services. However, when we take into account the effect of terrain factors, only about 10% of the gain area is underserved, still leaving the remaining 90% of the gain area well-served with at least five full-time reception services. Our analysis also reveals that the gain area contains no white or gray areas.⁴ Moreover, we reject Eagle's claim that primary service (60 dBu signal) from four of the full-time FM reception services credited to Tillamook is precluded by terrain shielding. In reaching that conclusion, we note that for existing FM services, it is Commission policy to assume omnidirectional signals operating at maximum facilities for all classes of stations except Class C stations.⁵ Having considered that, and after replotting the other existing services in the vicinity of Tillamook/Tillamook County (taking into account the effect of terrain factors), we have found that Tillamook receives at least two full-time FM reception services.⁶ Therefore, since we find that the upgrade at Tillamook in lieu of the a new primary service at Chehalis would not be in the public interest, we deny Eagle's one-step upgrade application.

Technical Summary

8. An engineering analysis has determined that Channel 282A can be allotted to Chehalis in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.4 kilometers (0.9 miles) south to avoid a short-spacing to the licensed site of

⁴For purposes of FM allotments, a white area is a geographical area that is not served by any full-time aural service, and a gray area is one that is served by only one full-time aural service.

⁵For Class C stations we assume omnidirectional signals while using each station's actual facilities.

⁶We note that Eagle's engineering statement fails to show that Station KEX(AM) (1190 kHz) at Portland, Oregon, provides a clear channel signal not only to Tillamook but to the surrounding areas of Rockaway and Manhattan Beach, Oregon. Moreover, Eagle erroneously states that Tillamook has only two local aural transmission services, when in fact, the community has three local aural transmission services.

Station KAFE(FM), Channel 282C, Bellingham, Washington.⁷ Since Chehalis is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained.

9. Accordingly, pursuant to the authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective November 30, 1998, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the community listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Chehalis, Washington	282A

10. A filing window for Channel 282A at Chehalis, Washington, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

11. IT IS ORDERED, That the one-step upgrade application (BPH-970224IC) filed by of Oregon Eagle, Inc., requesting the substitution of Channel 282C1 for Channel 281C3 at Tillamook, Oregon, IS DENIED.

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

13. For further information concerning this proceeding, contact Sharon P. McDonald, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
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Mass Media Bureau

⁷The coordinates for Channel 282A at Chehalis are North Latitude 46-38-57 and West Longitude 122-57-58.